

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

CODY RYAN FIELDS
Plaintiffs,

vs.

Civil Action No.: 2:19-cv-00493

ROSS H. MELLINGER, individually and in his capacity as a Deputy with the Jackson County, West Virginia Sheriff's Department, TONY BOGGS, individually and in his capacity as the Sheriff of Jackson County, West Virginia, and the JACKSON COUNTY COMMISSION d/b/a the JACKSON COUNTY SHERIFF'S DEPARTMENT, a body politic.

Defendants.

COMPLAINT

This complaint, brought pursuant to 42 U.S.C. Section 1983, 1985, and 1988, the Fourth and Fourteenth Amendments to the United States Constitution, the West Virginia Constitution, Statutes and common law, arises out of the Defendants' unlawful arrest, detention, and brutalization of the plaintiff on or about September 20, 2017 at or near the City of Ripley, Jackson County, West Virginia, West Virginia, within the Southern District of West Virginia.

JURISDICTION

This Court has jurisdiction over this matter pursuant to 28 U.S.C. 1331 and 1343.

PARTIES

1. The Plaintiff at all times relevant to this Complaint was a resident of Jackson County, West Virginia, within the Southern District .

2. Defendant Mellinger, at all times relevant to this complaint, was a Deputy Sheriff with the Jackson County Sheriff's Department and acting under the color of law. Said Defendant is sued in his individual and official capacities.
3. Defendant Boggs, at all times relevant to this complaint, was and the duly-elected Sheriff of Jackson County, West Virginia. Said Defendant is sued in his individual and official capacities.
4. Defendant Jackson County Commission is a body politic existing under the statutes and laws of the State of West Virginia and is a political subdivision of the State of West Virginia. Said Commission is the body politic governing the Jackson County Sheriff's Department, a subdivision thereof.

FACTS

The Plaintiffs incorporate by reference paragraphs 1-4, supra.

5. On or about the 20th day of September, 2017, defendant Mellinger, under the auspices of executing a search warrant upon the residence of Joseph Farrell at 298 Maplewood Heights Road, at or near Ripley, Jackson County, West Virginia, confronted the plaintiff in a detached garage with the front bay door open and told the plaintiff to get on the ground. The plaintiff was standing with his hands in the air and bending at the waist to get down when defendant Mellinger, using deadly and excessive force, and not utilizing lesser means of command such as pepper spray, viciously struck the plaintiff in the face with the butt end of a shotgun, all of which was without probable cause or provocation, and without any resistance whatsoever, causing facial injuries and knocking out several of the plaintiff's teeth, as evidenced by the attached photo of the plaintiff taken by one of deputies on the scene, incorporated herein by reference. Thereafter, defendant Mellinger told the plaintiff that his teeth needed to come out anyway.

6. At the time of the attack by Defendant Mellinger, plaintiff was not under arrest, having committed no crime, he was being compliant, he was not attempting to flee, he was not attempting to assault or strike Defendant Mellinger and he was not threatening to do so.
7. At the time he was attacked, the Defendant Mellinger had no reason to believe that the plaintiff had committed or was committing any crime, in that the plaintiff was situate in an open garage, detached from the residence which the defendant had a warrant to search and, apparently, did not search at that date and time. Defendant had no reason to believe plaintiff was in possession of any weapons and never inquired of the plaintiff whether he was in possession of any weapons prior to attacking him. Indeed, defendant Mellinger never inquired of the plaintiff who he was and what he was doing in the garage.
8. At all times pertinent hereto, the Jackson County Sheriff's Department had a departmental protocol and policy as regards the use of force, as follows or similar hereto:

Officers are authorized to use deadly force when in defense of him/herself or others from an objectively reasonable belief of an immediate threat of death or serious bodily injury.

Unnecessary force occurs when it is apparent that the type or degree of force employed was not objectively reasonable.

Deadly force is any use of force which, under the circumstances in which it is used, is readily capable of causing death or other serious injury.
9. Thereafter, the defendant Mellinger placed plaintiff under arrest for bogus charges of obstruction and simple possession, resulting in his detention. After repeated attempts to have a suppression hearing on the underlying charges, the Magistrate Court of Jackson County dismissed the charges on May 1, 2018 based upon the State's witnesses repeatedly being unavailable for a hearing and, thus, failure to

prosecute.

10. Upon information and belief, which will or may be disclosed by discovery, defendant Mellinger has a pattern and practice of inflicting excessive force and physical pain upon suspects and/or defendants, which pattern and practice is known to the Sheriff's Department, specifically, Defendant Boggs who, in the instant case, took photographs of the plaintiff's injuries. Upon information and belief, the Sheriff's department adopted a policy of paying lip-service to the Use of Force rules and not enforcing the violation of the same, either by quiet consent or by custom.

STATE LAW CLAIMS

COUNT I - -CONSTITUTIONAL TORT

11. Plaintiff hereby realleges and incorporates by reference each and every allegation made in paragraphs 1 through 8 of this **COMPLAINT**.
12. Count I alleges a constitutional tort action under the West Virginia Constitution, pursuant to the common law of West Virginia.
13. The actions of Defendants violated the constitutional rights guaranteed to plaintiff under Article III, Sections 6, 10, and 17 of the West Virginia Constitution, which incorporates the constitutional rights guaranteed to Plaintiffs under the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution.
14. The actions of Defendants were done in bad faith, were done maliciously, and were in violation of clearly established law, or in a wanton or reckless manner.
15. As a proximate result of Defendants' actions, plaintiff sustained physical, mental and emotional damages, incurred medical expenses, suffered embarrassment, humiliation, annoyance, inconvenience, deprivation of liberty and suffered otherwise,

and is entitled to recover damages for the same.

COUNT IV - - NEGLIGENCE

16. Plaintiffs hereby realleges and incorporates by reference each and every allegation made in paragraphs 1 through 13 of this COMPLAINT, as if re-stated verbatim herein.
17. Defendants failed to exercise reasonable care in the hiring, retention, and/or supervision of their employees, specifically Defendant Mellinger.

COUNT III - - BATTERY

18. Plaintiff hereby realleges and incorporates by reference each and every allegation made in paragraphs 1 through 15 of this COMPLAINT, as if re-stated verbatim herein.
19. The actions of the defendant Mellinger constitutes battery upon plaintiff and is actionable *per se*.
20. As a proximate result of Defendants' actions as aforesaid, plaintiff sustained physical, mental and emotional damages, and sustained medical damages and expenses, suffered embarrassment, humiliation, annoyance, inconvenience, deprivation of liberty and suffered otherwise, and is entitled to recover damages for the same.

COUNT IV - - OUTRAGEOUS CONDUCT/INTENTIONAL INFLICTION

21. Plaintiff hereby realleges and incorporates by reference each and every allegation made in paragraphs 1 through 18 of this COMPLAINT, as if restated herein verbatim .
22. The actions of individual defendant Mellinger as aforesaid were outrageous, constitute the intentional inflection of mental, physical and emotional distress, were

reprehensible, fraudulent, wilful and wanton, malicious, and in blatant and intentional disregard of Plaintiff's rights, thereby justifying an award of punitive damages against him in his individual capacity.

23. As a proximate result of Defendants' actions as aforesaid, plaintiff sustained physical, mental and emotional damages, and sustained medical damages and expenses, suffered embarrassment, humiliation, annoyance, inconvenience, deprivation of liberty and suffered otherwise, and is entitled to recover damages for the same.

24. All causes of action complained of herein against the Jackson County Commission dba Jackson County Sheriff's Office seek only to recover to the extent said defendants are covered by liability insurance and do not seek to recover taxpayer payments.

25.

FEDERAL LAW CLAIMS

COUNT 1 - - EXCESSIVE FORCE COGNIZABLE UNDER 42 U.S.C. 1983

25. The Plaintiffs incorporate herein by reference paragraphs 1-22 above.

26. No objectively reasonable police officer would have believed, based upon the actual facts of the case, that probable cause existed to use the excessive force utilized by the defendant Mellinger, as described in Paragraph 5, supra, and detain the plaintiff, and transport him to detention facilities.

27. Said defendants' actions were objectively unreasonable, unlawful, unwarranted, and in violation of the said Plaintiff's clearly-established procedural and substantive rights, of which a reasonable person should have known, pursuant to the First, Fourth and Fourteenth Amendments to the United States Constitution and its counterparts

in the West Virginia Constitution. Said Defendants' actions were willful, wanton, intentional, malicious and done with callous and reckless disregard for the Plaintiff's constitutional rights. The allegations in this paragraph are likely to have evidentiary support after a reasonable opportunity for discovery.

**COUNT II - - *MONELL* AND SUPERVISORY LIABILITY COGNIZABLE
UNDER 24 U.S.C. 1983**

28. The Plaintiff, by reference, incorporates paragraphs 1-25 above.
29. The above-described deprivation of Plaintiff's constitutional rights were caused by implementation of customs, policies or official or unofficial acts of Defendants Jackson County Commission dba Jackson County Sheriff's Department and Boggs, to wit: the failure of said Defendants to adequately hire, train, supervise, and discipline its police officers regarding the circumstances which constitute excessive force. Said defendants failed to provide reasonable means of supervision of Officer Mellinger at a time when they knew, or should have known, that said defendant had serious anger management issues or otherwise had a propensity or pattern or practice of violence.
30. Said policy, practice or custom was the direct and proximate cause of the injuries and Constitutional violations which the Plaintiffs suffered.

**COUNT IV - - UNLAWFUL CONSPIRACY COGNIZABLE UNDER 42 U.S.C
1983 & 1985**

31. The Plaintiffs by reference incorporates paragraphs 1-28 above.
32. Based on the above facts and after a reasonable opportunity for discovery the Plaintiffs will establish that the Defendants unlawfully conspired to deprive the

Plaintiff of his constitutionally protected rights as more fully described above, to-wit: Defendant Mellinger, J.M. Comer, and C.C. Metz each submitted written reports to the defendant Boggs and/or Prosecuting Attorney Katie Franklin, either on their own initiative or at Defendant Boggs' request, attempting to mitigate the clearly excessive force utilized against the plaintiff.

33. Said defendants' actions were objectively unreasonable and violated the Plaintiffs' clearly established constitutional rights all in violation of the Fourth, and Fourteenth Amendments to the United States Constitution and their counterparts in the West Virginia Constitution. The allegations in these paragraphs are likely to have support after a reasonable opportunity for discovery.

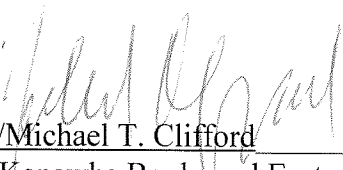
PRAYER

WHEREFORE, based on the above stated facts, the Plaintiffs respectfully request that this Honorable Court take judicial notice of the official records of the Jackson County Magistrate Court, and award damages as follows:

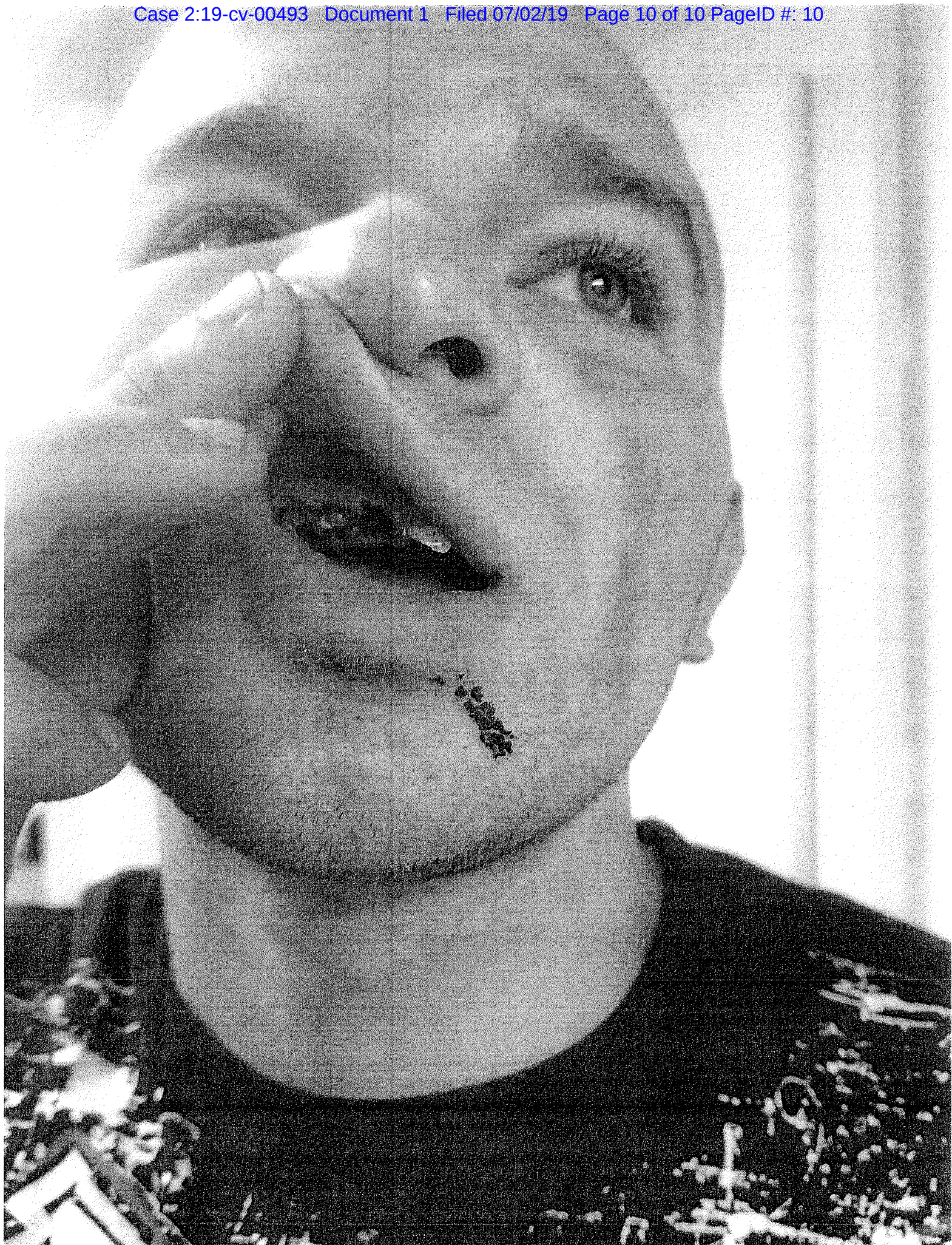
1. Damages against Defendants in an amount to be determined at trial which will fairly and reasonably compensate the Plaintiff for:
 - a. Past, present and future medical expenses;
 - b. Past, present and future economic damages;
 - c. Past, present and future pain and suffering;
 - d. Loss of enjoyment of life;
 - e. Annoyance aggravation and inconvenience;
 - f. Psychological, emotional distress and loss of consortium; and
 - g. Any other compensatory damages to be proven at trial;

- h. Punitive damages against the individual defendant in an amount to be determined at trial;
- I. Reasonable attorney fees and costs;
- j. Any other relief that this Court deems just and equitable;
- k. All other damages provided by law;
- l. Injunctive relief requiring appropriate training, supervision and discipline in order to remedy all constitutional deprivations which the Plaintiff suffered; and
- m. Declaratory judgment relief establishing the Defendants' above-described conduct violate the Plaintiff's clearly established constitutional rights.

JURY TRIAL DEMANDED


/s/Michael T. Clifford
723 Kanawha Boulevard East
Suite 1200 Union Building
Charleston, WV 25301
304-720-7662
304-720-7753fax

CODY RYAN FIELDS
by Counsel



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

CODY RYAN FIELDS

CODY RYAN FIELDS

(b) County of Residence of First Listed Plaintiff JACKSON

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney (Firm Name, Address, and Telephone Number)

Michael T. Clifford (#750)
723 Kanawha Boulevard East, Suite 1200

ROBERT L. TUNGER, individually and in his capacity as a deputy with the Jackson County, West Virginia Sheriff's Department, TONY BOGGS, INDIVIDUALLY and in his capacity as the Sheriff of Jackson

County of Residence of First Listed Defendant JACKSON

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. §1983

Brief description of cause:

Excessive Force (Police Brutality)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
07/02/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT


APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia 

CODY RYAN FIELDS

Plaintiff(s)

v.

ROSS H. MELLINGER, INDIVIDUALLY, AND IN HIS
CAPACITY AS A DEPUTY WITH THE JACKSON
COUNTY, WEST VIRGINIA SHERIFF'S
DEPARTMENT, TONY BOGGS, INDIVIDUALLY et als

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* ROSS H. MELLINGER
100 MAPLE STREET
RIPLEY, WV 25271

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: MICHAEL T. CLIFFORD
723 Kanawha Boulevard East, Suite 1200
Charleston, WV 25301

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT


Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia 

CODY RYAN FIELDS

Plaintiff(s)

v.

ROSS H. MELLINGER, INDIVIDUALLY, AND IN HIS
CAPACITY AS A DEPUTY WITH THE JACKSON
COUNTY, WEST VIRGINIA SHERIFF'S
DEPARTMENT, TONY BOGGS, INDIVIDUALLY et als

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) TONY BOGGS, SHERIFF OF JACKSON COUNTY, WEST VIRGINIA
100 MAPLE STREET
RIPLEY, WV 25271

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: MICHAEL T. CLIFFORD
723 Kanawha Boulevard East, Suite 1200
Charleston, WV 25301

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.


CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia 

CODY RYAN FIELDS

Plaintiff(s)

v.

ROSS H. MELLINGER, INDIVIDUALLY, AND IN HIS
CAPACITY AS A DEPUTY WITH THE JACKSON
COUNTY, WEST VIRGINIA SHERIFF'S
DEPARTMENT, TONY BOGGS, INDIVIDUALLY et als

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* JACKSON COUNTY COMMISSION dba JACKSON COUNTY SHERIFF'S
DEPARTMENT
JACKSON COUNTY COURTHOUSE
RIPLEY, WV 25271

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: MICHAEL T. CLIFFORD
723 Kanawha Boulevard East, Suite 1200
Charleston, WV 25301

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk